

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

CHARLES MORRIS.

Case No. 3:18-CV-310-RCJ-CLB

Plaintiff,

ORDER

v.

ROMEO ARANAS, et al.,

Defendants.

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11 On February 25, 2022, Plaintiff Charles Morris (“Morris”) filed a Motion for
12 Appointment of Counsel. (ECF No. 94). The Court ultimately denied the motion, finding
13 that exceptional circumstances did not exist to warrant appointment of counsel at that
14 time. (ECF No. 111). Morris now brings an action for appointment of pro bono counsel
15 under the Pro Bono Program. (ECF No. 108). At this point in time, the Court believes that
16 Morris’ case is a good candidate for the Pro Bono Program for the reasons discussed
17 below. For that reason, the Court grants Morris’ Motion for Appointment of Counsel (ECF
18 No. 108) and withdraws the Order denying appointment of counsel. (ECF Nos. 111).¹

19 There is no constitutional right to appointed counsel in a § 1983 action. *E.g., Rand*
20 *v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *opinion reinstated in pertinent part*, 154
21 F.3d 952, 954 n.1 (9th Cir. 1998) (en banc). The provision in 28 U.S.C. §1915(e)(1) gives
22 the court discretion to “request an attorney to represent any person unable to afford
23 counsel.” 28 U.S.C. § 1915(e)(1); see, e.g., *Wilborn v. Escalderon*, 789 F.2d 1328, 1331
24 (9th Cir. 1998) (en banc.) While the decision to request counsel lies within the discretion
25 of the district court, the court may exercise this discretion to request counsel only under

27 ¹ Morris also brings an additional Motion for Appointment of Counsel (ECF No.
28 119) with points and authorities to get referred to the Pro Bono Program. The Court denies
this motion as moot.

1 "exceptional circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). The
 2 Court did not find that Morris provided sufficient evidence to warrant appointment of
 3 counsel under exceptional circumstances. (ECF No. 111).

4 However, the Court can reconsider appointing counsel under the Pro Bono
 5 Program without needing exceptional circumstances. Under that program, the Court "may
 6 refer the case to the [Pro Bono] Program for the appointment of pro bono counsel" at any
 7 time. Second Amended General Order 2019-07. The Court has the discretion to refer the
 8 case to the program and the referral "is not an endorsement of the merits of the case." *Id.*

9 Given the posture of this case at this juncture, the Court finds that Morris will benefit
 10 greatly from appointment of pro bono counsel. Specifically, given the procedural posture
 11 of the case, counsel will help Morris prepare for trial and represent him at trial. "The
 12 assistance of counsel becomes increasingly important as litigation enters its later stages
 13 and the tasks become more complex." *Blanco v. Jacoby*, No. 3-20-CV-00050-ART-CRD,
 14 2023 WL 2238850, at *3 (D. Nev. Feb. 27, 2023). Especially here, where this is a jury
 15 trial.

16 Additionally, given the attempts to settle this case, counsel will aid Morris engage
 17 in further settlement conversations. Counsel can help explain to Morris the benefits and
 18 drawbacks of negotiating to a settlement agreement. Counsel can also better
 19 communicate with the Defendant in this matter being that Morris is in the state's custody.
 20 Accordingly, the Court finds that referral to the Pro Bono Program is warranted.

21 The Court therefore withdraws the prior order denying the motion for appointment
 22 of counsel, (ECF No. 111), and reconsiders and grants Morris' motion for appointment of
 23 counsel. (ECF No. 108). This case is referred to the Pro Bono Program adopted in the
 24 Second Amended General Order 2019-07 for the purpose of identifying counsel willing to
 25 be appointed as pro bono counsel for Morris. Again, by referring this case to the Program,
 26 the Court is not expressing an opinion on the merits of the case.

27 Accordingly, **IT IS HEREBY ORDERED** that the Court's prior order denying the
 28 motion for appointment of counsel, (ECF No. 111), is **WITHDRAWN**.

1 **IT IS FURTHER ORDERED** that upon reconsideration, Morris' Motion for
2 Appointment of Counsel, (ECF No. 108), is **GRANTED**.

3 **IT IS FURTHER ORDERED** that Morris' Motion for Appointment of Counsel, (ECF
4 No. 119), is **DENIED** as moot.

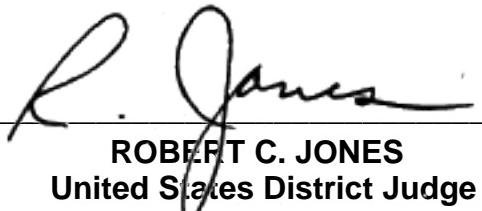
5 **IT IS FURTHER ORDERED** that this case is referred to the Pro Bono Program for
6 appointment of counsel for the purposes identified herein.

7 **IT IS FURTHER ORDERED** that the Clerk shall also forward this order to the Pro
8 Bono Liaison.

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10 Dated this 10th day of March 2023.

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13 **ROBERT C. JONES**
14 United States District Judge

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